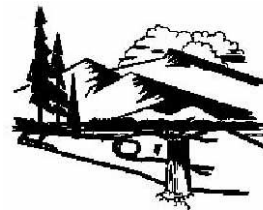




# Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.



Mark Gordon, Governor



Todd Parfitt, Director

## MEMORANDUM

**TO:** Kelly Shaw, Wyoming Assistant Attorney General

**FROM:** Kevin Frederick, Water Quality Division Administrator *Kevin Frederick*

**DATE:** May 20, 2020

**PRIORITY:** **HIGH** – Deadline for response is **June 3, 2020**

**SUBJECT:** **Request for review of proposed rules for statutory authority**

The Department of Environmental Quality (DEQ), Water Quality Division (WQD) is proposing to revise Chapters 14 and 28 of the Water Quality Rules and Regulations. The proposed revisions to Chapter 14 include revising the requirements for financial assurance instruments for consistency with other divisions within the Department and banking statutes and regulations; clarifying the requirements for closure, post-closure, and corrective action plans; and restructuring passages in the Chapter for clarity and to meet Secretary of State formatting requirements. WQD is proposing to create a new chapter, Chapter 28, to streamline and clarify the various design, construction, operation, monitoring, and annual reporting requirements for commercial oilfield waste disposal facilities.

WQD took public comment on the proposed revisions to Chapters 14 and 28 beginning September 6, 2019 and ending October 7, 2019. WQD took additional public comment beginning April 1, 2020 and ending on May 8, 2020. On May 8, 2020, the Water and Waste Advisory Board recommended the adoption of revisions to both chapters to the Environmental Quality Council.

WQD has reviewed the requirements of W.S. 35-11-302(a)(iii) and (vi), and 35-11-313(f) of the Act and has determined this rulemaking to be in procedural compliance with the statute. WQD has reviewed and responded to the Takings Checklist provided by the Attorney General's Office. WQD is now seeking a review of the proposed rules for statutory authority before submitting the rules to the Governor's Office for permission to proceed to formal rulemaking.

Per the Attorney General's Rules Handbook, you will find enclosed:

- A copy of the draft memo to Governor Gordon
- A copy of the draft Statement of Principal Reasons for Adoption
- A copy of Chapter 14 in strike and underline format

- A copy of Chapter 14 in clean format
- A copy of Chapter 28 in strike and underline format
- A copy of Chapter 28 in clean format
- A response to the Attorney General's Takings Checklist.

If you have any questions or need additional information regarding the proposed rules please do not hesitate to contact me or Rich Cripe of my staff.

**Attorney General's Response Options:**

  X   Proposed Rules are within the Division's statutory authority, may seek permission to proceed from the Governor's Office.

       Proposed rules exceed statutory authority, delay proceeding with rulemaking

  
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Signature: Kelly Shaw

May 22, 2020  
\_\_\_\_\_  
Date

KF/gjt